(4)

CF100L SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P.(S)No.....6942...../2006

PETITIONER:

Dilharan Lal Sahu S/O Shri Mahtaru Ram Sahu, Aged 46 years, Working as U.D.T. Govt. Higher Secondary School Kotba, R/o Village Khursi Tehsil Mungeli Distt. Bilaspur (C.G.)

P.R. No. 6639/06 Presented on 22-11-06 dated M. Chauhan

VERSUS

RESPONDENTS:

1. State of Chhattisgarh Through : Secretary, Department of Tribal Welfare, Mantralaya D.K.S. Raipur (C.G.)

2. Asst. Commissioner, Tribal Welfare Deparment District Jashpur (C.G.)

BATH COMMISSIONER BILASPUR TAHSIL OFFICE S.R. No. 22/11/06

RECEIVED-COPY 22/11/06 CLERK to A. G. BILASPUR

PETITION UNDER ARTICLES 226/~~227~~ OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRITS OF MANDAMUS AND CERTIORARI AND FOR OTHER SUITABLE WRITS AND DIRECTIONS:-

1. **PARTICULARS OF THE PETITIONERS:**

(37)

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. No. 6940 of 2006

Petitioner : Gautam Sai
Versus
Respondents : State of Chhattisgarh & another

W. P. No. 6941 of 2006

Petitioner : Shyam Sngh Paikara
Versus
Respondents : State of Chhattisgarh & another

W. P. No. 6942 of 2006

Petitioner : Dilharan Lal Sahu
Versus
Respondents : State of Chhattisgarh & another

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri Rahul Jha, Advocate for the Petitioners.
Shri Arun Sao, Govt. Advocate for the State/respondents.

ORDER

(Passed on this 13th day of December, 2006)

1. The petitioners are working as Upper Division Teachers/Assistant Teachers in the government schools. In the course of their services as Upper Division Teachers/Assistant Teachers, the petitioners have obtained B.Ed./B.T.I. examination certificates on their own expenses before 1.3.1999.

2. Writ Petition No.s 6940/2006, 6941/2006 and 6942/2006 are being disposed of by this common order as the facts and question of law involved in these petitions are common.

3. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}.

(35)

This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed. /B.T.I. Examination Certificate on their own expenses, are covered by the circular dated 24.12.98 (Annexure P/7) issued by the State Government of Madhya Pradesh.

4. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B.Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A.No. 1632/99, decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B.Ed. degree before 1.3.1999 is entitled to two advance increments.

5. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B.Ed./B.T.I. examination certificate before

(36)

1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

6. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

7. Accordingly, the writ petitions are allowed in terms of the order passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired B.Ed./B.T.I. Examination Certificate on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999 and further whether they have been paid two advance increments or not. No order as to costs.

8. A copy of this order be placed on record of connected matters.

Sd/-
Satish K. Agnihotri
Judge

Thakur